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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA,	:	Hon. Jose L. Linares
v.	:	Criminal No. 08-290
MARCELLUS MITCHELL	:	CONSENT JUDGMENT AND PRELIMINARY ORDER OF FORFEITURE

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This matter having been opened to the Court by Christopher J. Christie, United States Attorney for the District of New Jersey, (Assistant United States Attorney Jacob T. Elberg, appearing), for the entry of a consent judgment and preliminary order of forfeiture, and defendant Marcellus Mitchell (Patrick McMahon, AFD, appearing) having consented to the request; and the Court having found that:

WHEREAS, in accordance with the Plea Agreement filed on or about JULY 23, 2008 entered into between the United States of America and defendant Marcellus Mitchell in the above matter, the defendant, pursuant to 18 U.S.C. § 924(d)(1), 21 U.S.C. § 853 and 28 U.S.C. § 2461(c), has agreed to forfeit to the United States the following property:

(1) one (1) .380 caliber Lorcin handgun with serial number 249309

(2) five (5) .380 caliber bullets

(hereinafter the "Forfeited Property" or "the Forfeited Firearm and Ammunition"); and

**WHEREAS**, defendant, Marcellus Mitchell, has specifically acknowledged notice of the criminal forfeiture, consented to the entry of a Consent Judgment and Preliminary Order of Forfeiture, and waived his right to be present and heard on the timing and form of this order pursuant to Federal Rules of Criminal Procedure 32.2(a) and 43(a); and

**WHEREAS**, defendant, Marcellus Mitchell, has agreed not to contest the forfeiture of the above referenced property;

**WHEREAS**, by virtue of the above, the United States is now entitled to possession of the Forfeited Property pursuant to 18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c) , and 21 U.S.C. § 853 and Rule 32.2 of the Federal Rules of Criminal Procedure; and

**WHEREAS**, defendant Marcellus Mitchell has waived and abandoned all right, title and interest in the Forfeited Firearm and Ammunition; and defendant Marcellus Mitchell has further waived, released and withdrawn any claim that defendant may have made with respect to the Forfeited Firearm and Ammunition, and waived and released any claim that defendant might otherwise have made to that property in the future; and

WHEREAS, defendant Marcellus Mitchell having consented to the destruction of the Forfeited Firearm and Ammunition; and for good and sufficient cause shown;

It is hereby ORDERED, ADJUDGED AND DECREED:

1. That the Forfeited Property, specifically:

(1) one (1) .380 caliber Lorcin handgun with serial number 249309

(2) five (5) .380 caliber bullets


2. That pursuant to applicable law the United States forthwith shall publish at least once for three successive weeks in a newspaper of general circulation, notice of this Order, notice of the United States' intent to dispose of the Forfeited Property in such manner as the Attorney General may direct and notice that any person, other than the defendant, having or claiming a legal interest in the Forfeited Property must file a petition with the court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier;

3. That this notice: (a) shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Forfeited Property; (b) shall be signed by the petitioner under penalty of perjury, and (c) shall set forth the nature and extent of the petitioner's right or interest in the Forfeited Property and any additional facts supporting the petitioner's claim and the relief sought;


4. That the United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the Forfeited Property that is the subject of this Consent Judgment and Preliminary Order of Forfeiture, as a substitute for published notice as to those persons so notified; and

5. That upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture authorizing the United States to destroy the Forfeited Firearm and Ammunition.

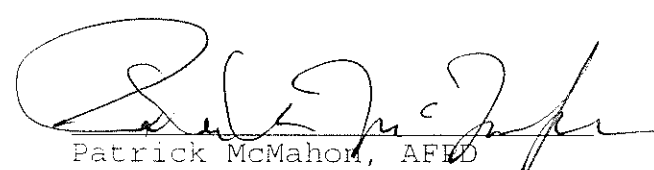
ORDERED this 23<sup>rd</sup> day of JULY, 2008.

  
HONORABLE JOSE L. LINARES  
United States District Judge

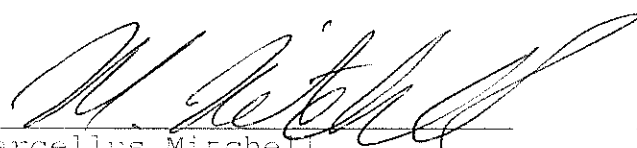
CHRISTOPHER J. CHRISTIE  
UNITED STATES ATTORNEY

  
By: Jacob T. Elberg  
Assistant U.S. Attorney

April 29, 2008  
Dated

  
Patrick McMahon, AFED  
Counsel for the Defendant

July 18, 2008  
Dated

  
Marcellus Mitchell  
Defendant

July 18, 2008  
Dated